



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

SEP 12 2014

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Darryl Lum
Engineering Section Supervisor
Clean Water Branch
State of Hawaii Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

Re: Proposed revisions to Hawaii Administrative Rules, Title 11, Chapters 54 and 55

Dear Mr. Lum:

Thank you for the opportunity to review and comment on the proposed revisions to the Hawaii Administrative Rules (HAR), Title 11, Chapter 54, entitled "Water Quality Standards" and Chapter 55, entitled "Water Pollution Control," which were public noticed on August 28, 2014. Our comments focus primarily on the proposed language changes regarding compliance schedules, intake credits, and implementation of the recreational criteria.

Regarding the proposed revisions to HAR 11-54:

1. We are concerned with the proposed language for compliance schedules and intake credits, as these provisions are applied to water quality criteria or standards in addition to effluent limitations. Compliance schedules and intake credits are NPDES permit implementation tools, which apply to effluent limitations implementing water quality standards, not the standards themselves. DOH should clarify in the HAR that compliance schedules and intake credits apply only to implementation of water quality standards through NPDES permits.
2. Regarding the proposed language in HAR 11-54 for a schedule of compliance, DOH should clarify the following:
 - a. Pursuant to 40 CFR 122.47, a schedule of compliance must require compliance as soon as possible. The proposed language currently states that a compliance schedule must "include an enforceable final effluent limitation that is within the timeframe allowed as specified in sections 11-55-08(a)(1)(b), 11-55-15(d), 11-55-21, 11-55-22, 11-55-23(10), and 11-55-34.07(3)(B)." DOH should specify in HAR 11-54 that a compliance schedule must require compliance as soon as possible.

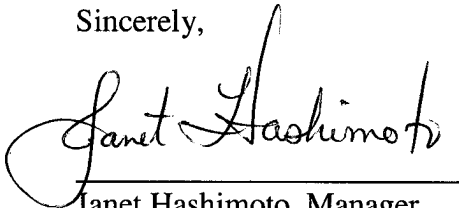
- b. Also pursuant to 40 CFR 122.47, a schedule of compliance must set forth interim requirements and dates for their achievement. Currently the proposed language only requires "interim requirements and a date by which the required water quality criteria must be achieved." The HAR should be clear that specific dates for each interim requirement must be included in addition to a final compliance date. Also, as described above, the latter part of the sentence should be changed from "water quality criteria" to water quality-based effluent limitations, as compliance schedules apply to effluent limitations that implement water quality criteria, not the criteria themselves.
- c. The proposed language should include the most updated CFR date (2014).

Regarding the proposed revisions to HAR 11-55:


1. We recommend DOH remove the following language in HAR 11-55-19 regarding implementation of the new recreational criteria: "Recreational criteria for all state waters in HAR section 11-54-8. A minimum of six samples collected on every fifth day over the thirty day sampling period as specified in the permit, shall be required to comply with HAR sections 11-54-8(b) and (c)." This would require collection of 36 samples/month for assessment of compliance with the water quality standard. Removal of this language will allow DOH the flexibility to consider the amount of data needed to assess compliance for each specific NPDES permitted facility.

We appreciate the opportunity to provide input on the proposed revisions. If you have any questions regarding our comments, please contact Janet Hashimoto at (415) 972-3452 and David Smith at (415) 972-3464, or our staff, Sara Roser at (415) 972-3513 and Elizabeth Sablad at (415) 972-3044.

Sincerely,



Janet Hashimoto, Manager
Water Quality Assessment Section



David Smith, Manager
NPDES Permits Section